

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

January 11, 2016

AGENDA

CALL TO ORDER

Business Meeting, Monday, January 11, 2016, 8:30 a.m., 630 Camp Street, New Orleans, 5th Floor.

Personal Appearances, Monday, January 11, 2016, 1:00 p.m.

Rudy G. Gomez, Partner, SSA Consultants, LLC, Monday, January 11, 2016.

PUBLIC SESSION

1. MINUTES/PRIOR MEETINGS/CONFERENCES

Approval of minutes of last meeting.

Status report on action items of prior Board meetings.

Report on assignments to counsel.

2. RULINGS AND ADVISORY OPINIONS

Practice of Microdermal Needling; Branding or other Body Art.

Departing Physician Notice to Patients.

3. COMMUNICATIONS AND INFORMATION

Morbidity and Mortality Weekly Report.

4. GENERAL ADMINISTRATIVE MATTERS¹

Financial Matters; Travel Authorization.

President's Report.

Executive Director's Report.

Termination of Patients.

Legislative Report on Medical Marijuana (Act 261).

5. RULES AND REGULATIONS

a. Final **Rules/Amendments: Marijuana for Medical Purposes:** Act 261 (SB 143 Sen. Mills) of the 2015 session of the Louisiana Legislature directed the Board to: i) promulgate rules by January 1, 2016 authorizing physicians to prescribe marijuana for specified conditions (glaucoma, symptoms resulting from administration of chemotherapy cancer treatment and spastic quadriplegia); and ii) annually submit a report to the Senate and House Health & Welfare Committees as to any additional conditions that should be added to the list. The Act was provided to the Board for review and discussion at the July 2015 meeting. A draft of the proposed rules was presented for initial review and consideration at the August 2015 meeting following which the Board approved publication of a *Notice of Intent* to adopt the rules in the September edition of the *Louisiana Register*. A public was not requested and the comment period has closed. The Final Legislative Report was mailed to the Legislative Oversight Committees and commenters. The amendments were formally adopted by and upon promulgation in the December 2015 edition of the *Louisiana Register*.

Complaints and Investigations: The President directed that staff/counsel commence a rule-making effort detailing the processes used by the Board for handling complaints and investigations given the concerns raised by HB 576, subsequently HB 843 (Act 441, Rep. Hazel). The matter appeared on the Board's May 2015 agenda for consideration and discussion of the rulemaking effort. The new law requires the Board to promulgate rules by January 1, 2016. During the July 2015 meeting, the Board reviewed copies of Act 441, the Board's existing Rules on Adjudication (§§9901-9931) and a draft of the proposed rules. The draft was further discussed at the August 2015 meeting and additional comments and suggestions were offered following which the Board approved the draft as amended for publication as a *Notice of Intent* in the September 2015 edition of the *Louisiana Register*. During the comment period, the

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

January 11, 2016

AGENDA

Board received written comments and a public hearing was held during the October 26, 2015 meeting of the Board. At that time the Board voted to move forward with a new rulemaking effort to effect certain suggested changes and hold another meeting to consider and discuss whether to accept or reject other comments as part of its new rulemaking effort. A meeting was held November 9, 2015. Thereafter, the Final Legislative Report was mailed to the Legislative Oversight Committees and commenters. The rules and amendments noticed in the September 2015 *Louisiana Register* were formally adopted by and upon promulgation in the December 2015 edition of the *Register*. .

b **Rules/Amendments: Noticed for Intent: Physicians: Complaints and Investigations:** During its October 2015 meeting, the Board considered a draft containing various changes (Sections 8315, 9707, 9709, and 9711) to its proposed rules on Complaints and Investigations of physicians, which were *Noticed for Intent* in the September 2015 edition of the *Louisiana Register*. Following review and discussion the Board voted to proceed with a new rule effort and provide *Notice of Intent* to adopt the changes in the *Register*. Said notice appeared in the December 2015 *Louisiana Register*.

c. **Rules/Amendments under Development:** The following rules are under consideration by the Board. **Midwifery:** The Board considered amendments to the existing rules governing licensed midwife practitioners incorporating changes pursuant to the Louisiana Midwifery Practice Act during the 2012 session of the Legislature, updating the rules generally and rearranging sections for ease of reference. The Board reviewed and discussed changes at its January and February 2015 meetings. At its April 2015 meeting, the Board considered a suggestion that a licensed midwife be permitted to continue providing prenatal care to a woman with one prior cesarean section provided arrangements have been made with a physician, documented in the midwife's chart for the planned hospital delivery at the onset of labor. Per the Board's request, the suggested language is attached for the Board's consideration. The Louisiana Midwives Association has provided input on the suggested changes. Input from another stakeholder has been received and it is being reviewed by staff. Attached is a revised draft for the Board's considerations which includes the suggested changes by interested parties and staff. **Physicians Compounding Medication:** At its December 2014 and January 2015 meetings, the Board reviewed Emergency Rules adopted by the Louisiana State Board of Pharmacy to reflect certain changes in federal law concerning compounded medication. Following review and discussion, the Board elected to undertake a rulemaking effort as to physicians who compound medication in order to insure consistency with federal and state law and regulations. A draft will be presented for initial review and consideration in due course. **Clinical Laboratory Personnel:** At the request of its Clinical Laboratory Personnel ("CLP") Advisory Committee, the Board agreed to undertake a rulemaking effort to amend its CLP Rules to reduce the term of a temporary permit from six months to three months. The Board directed that a draft be prepared and presented for review and approval. In conformity with the Board's direction, a draft was presented for initial review and discussion at its April 2015 meeting. Following further discussion at its May 2015 meeting, the Board voted to provide *Notice of Intent* to adopt the rule amendments. This notice will appear in the *Louisiana Register* in due course. **Physician Advertising; Board Certification:** At its March 2015 meeting, the Board determined to undertake a rulemaking effort to establish a process for its approval of certifying boards, alternative to the ABMS and AOA, for purposes of physician advertising of *Board Certification*. The Board directed that a draft be prepared and presented for review and approval. In conformity with the Board's direction, a draft was presented for initial review and discussion at its April

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

January 11, 2016

AGENDA

2015 meeting. Following further discussion at its May 2015 meeting, the Board voted to provide *Notice of Intent* to adopt the amendments. An additional wording change was discussed at the September 2015 meeting and pre-notice input was received from interest parties at that time. Following review and discussion, the Board elected to defer action on this matter for at least another month to allow further consideration and input by other stakeholders. **Athletic Trainers:** The Board's Athletic Trainer Advisory Committee is working on amendments to the athletic trainer rules to conform them to the 2014 amendments to the Athletic Trainer Practice Act. The Committee's draft has been received. It is being reviewed by staff and it is anticipated that a draft will be presented to the Board for consideration in the next several months. **Podiatry; Eligibility for Advanced Practice:** The Podiatry Advisory Committee ("PAC") has requested amendments to the Board's Podiatry Rules to remove the requirements for board certification or eligibility as to an applicant for advanced practice who has completed a three year podiatry medical surgical residency training (PM&S 36) program. The draft was presented during the May 2015 meeting for initial review and discussion and was revised per further input from the Podiatry Advisory Committee. Following discussion and consideration, the Board approved the draft at its August 2015 meeting and voted to provide *Notice of Intent* to adopt the amendments in the *Louisiana Register*. **Podiatry; Histories and Physicals:** During the December 2015 meeting, the Board heard the request of the Louisiana Podiatric Medical Association and the Board's Podiatry Advisory Committee ("PAC") for a rule-making effort or advisory opinion authorizing the performance of histories and physicals ("H&Ps") by podiatrists in Louisiana. Following discussion, the Board asked the Association and PAC to submit their suggestions to staff for its preparation of a draft rule addressing the topic for its further consideration. A draft will be presented for initial Board member review and consideration in due course. **Physician Assistants:** Act 453 (SB 115, Sen. Mills) modified the law governing physician assistants (Pas) in a number of ways. A rulemaking effort will be needed to conform the Board's rules to the changes. In the interim, the law as amended by Act 453 controls any disparity with the rules. In the interim, notification is being posted on the Board's web page as to how a PA may apply for Schedule II controlled substances that have been delegated by a SP. The Board has solicited the input of its PA Advisory Committee and the Louisiana Academy of Physician Assistants respecting the amendments made necessary by virtue of Act 453. **Physicians; Training:** During its December 2015 meeting, the Board received a further report from staff outlining the review and analysis of data which demonstrates a decrease in disciplinary action with an increase in post-graduate year medical education. It also discussed the PGY requirements of other state medical boards and considered the current requirements in Louisiana for both US and International Medical Graduates.

EXECUTIVE SESSION

1. **MALPRACTICE COMMITTEE REPORT**
Professional liability reports.
2. **REPORTS INVESTIGATIONS/ADJUDICATIONS/LITIGATION**
Recommendation to Commence Investigations.
Investigation reports.
Personal appearance schedule.
3. **LITIGATION**
Reports on pending appeals/suits/petitions.

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

January 11, 2016

AGENDA

4. **ADJUDICATION REPORT**
5. **GENERAL DISCIPLINARY MATTERS**
Review of requests for reinstatement to full, unrestricted status, off probation.
6. **LICENSURE AND CERTIFICATION**
Clinical Laboratory Personnel, non-routine applicant.
Physician Assistant, non-routine applicant.
Graduates of US/Canadian Medical Schools
Non-routine applicants.
International Medical Graduates
Request for a waiver training for professor on tenure track.
7. **NEXT MEETING**
Next meeting of the Board – February 15, 16, 2016.